

# [1979] S. C. R. Statistical Analysis

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# STATISTICAL ANALYSIS OF [1979] S.C.R.

## TABLES

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Statistics compiled by the Board of Volume 19 of the Osgoode Hall Law Journal, York University. The Board of Editors wishes to acknowledge the invaluable assistance of Mr. H. Laurence in the preparation of these tables. Mr. Laurence is a member of the 1982 graduating class of Osgoode Hall Law School. All tables except Table I deal with reported cases only.

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TABLE I

## VOLUME OF WORK

			TOTAL
Reported Judgments <sup>1</sup>			
Private	Public		
46 <sup>2</sup>	94 <sup>2</sup>		138 <sup>2</sup>
Reported Motions <sup>3</sup>			
Allowed	Dismissed	Other	
3	2	0	5
Unreported Appeals <sup>4</sup>			
Allowed	Dismissed	Other	
3	7	34	
Unreported Motions <sup>4</sup>			
Allowed	Dismissed	Other	
160	206	75	
Unreported References <sup>4</sup>			
	1		

<sup>1</sup> Appellate decisions and references are included under this heading; motions are not. A decision involving one or more appeals (including cross-appeals) or references is considered to be one case for the purpose of this category. Procedural cases are classified according to their underlying subject matters. If a case is classified under both "Private" and "Public," it is entered under each of those headings, but only once under "Total."

<sup>2</sup> *Racicot v. Bertrand*, [1979] 1 S.C.R. 441, has been included under both "Private" ("Contract") and "Public" ("Municipal") but only once under "Total." *Central Can. Potash v. The Gov't of Sask.*, [1979] 1 S.C.R. 43, has been included under both "Private" ("Conspiracy and Intimidation") and "Public" ("Constitutional"). *Sask. Power Corp. v. TransCanada Pipelines Ltd.*, [1979] 1 S.C.R. 297 has been included under "Private" ("Contract") and "Public" ("Constitutional").

<sup>3</sup> A decision involving one or more motions is entered once under one of "Allowed," "Dismissed" or "Other" except if the disposition of the motions is not the same, in which case the decision is entered once under two or more of "Allowed," "Dismissed" or "Other." A decision is entered only once under "Total."

<sup>4</sup> With respect to unreported decisions the following procedure applies: a decision involving one or more appeals (including cross-appeals) is entered once under one of "Allowed," "Dismissed," or "Other," except if the dispositions of the motions are not the same in which case the decision is entered once under two or more of "Allowed," "Dismissed" or "Other." A decision is entered only once under "Total."

All data under this heading are derived from the [1979] *Bulletin of Proceedings Taken In the Supreme Court of Canada*. It should be noted that decisions entered under this heading may be reported in subsequent volumes of the Supreme Court Reports.

TABLE II  
BREAKDOWN BY SOURCE<sup>1</sup>

	<u>PRIVATE</u>			<u>PUBLIC</u>			<u>Total from Source</u>
	Affirmed	Reversed	Other	Affirmed	Reversed	Other	
Newfoundland	1	0	0	1	0	0	2
Nova Scotia	0	1	0	0	1	0	2
Prince Edward Island	0	0	0	0	0	0	0
New Brunswick	0	0	0	3	6	0	9
Quebec	8	11	1 <sup>4</sup>	9	10	1 <sup>4</sup>	39
Ontario	7	3	0	12	6	0	28
Manitoba	0	1	0	1	2	0	4
Saskatchewan	0	1	1 <sup>2</sup>	4	0	1 <sup>2</sup>	6
Alberta	1	2	1 <sup>5</sup>	5	4	1 <sup>6</sup>	14
British Columbia	3	1	0	10	2	1 <sup>7</sup>	17
Yukon Territories	0	0	0	0	0	0	0
Northwest Territories	0	0	0	0	0	0	0
Court Martial							
Appeal Court	0	0	0	0	0	0	0
Federal Boards	0	0	0	0	0	0	0
Federal Courts	1 <sup>3</sup>	2	0	10 <sup>3</sup>	5	0	17
<b>TOTAL</b>	<b>21</b>	<b>22</b>	<b>3</b>	<b>55</b>	<b>36</b>	<b>4</b>	<b>138</b>

<sup>1</sup> Only appellate decisions (including references on appeal from the decision of a lower court) are included in this table. Decisions may be classified under both "Private" and "Public" because of multiple subject matters. A decision involving one or more appeals (including cross-appeals) is entered once under "Affirmed," "Reversed," or "Other" unless the lower court is both affirmed and reversed, in which case the decision is entered once under the two or more of "Affirmed," "Reversed," or "Other." A decision is entered only once under "Total from Source" unless it involves multiple appeals having different origins. Procedural decisions are classified according to their underlying subject matters.

<sup>2</sup> *Central Canada Potash Ltd. v. The Gov't of Sask.*, [1979] 1 S.C.R. 42, has been classified under both "Private" and "Public" for the purposes of this table. The decision has been included under "Other." The Court affirmed the decision of the Court of Appeal in part and reversed the Court of Appeal in part.

<sup>3</sup> *Sask. Power Corp. v. TransCanada Pipelines Ltd.*, [1979] 1 S.C.R. 297, has been classified under both "Private" and "Public" for the purposes of this table.

<sup>4</sup> *Racicot v. Bertrand*, [1979] 1 S.C.R. 497, has been included under both "Private" and "Public" for the purposes of this table. The Court affirmed the decision of the Court of Appeal in part and reversed the Court of Appeal in part.

<sup>5</sup> In *Anderson v. The Queen*, [1979] 1 S.C.R. 633, the Court adjourned the appeal *sine die*.

<sup>6</sup> In *Asamera Oil Corp. Ltd.*, [1979] 1 S.C.R. 633, the Court affirmed the decision of the Court of Appeal in part and reversed the Court of Appeal in part.

<sup>7</sup> In *Beeman v. The Queen*, [1979] 2 S.C.R. 16, the Court refused to hear the appeal.

TABLE III

SUBJECT MATTER OF LITIGATION<sup>1</sup>

This table indicates, first, the breakdown by subject matters of the reported cases; second, the number of cases decided by a given majority/dissent ratio within a given subject matter; and, third, with respect to "Appellate" cases only, the number of those cases in which the Supreme Court affirmed, reversed or took other action with respect to the decision of the court immediately below. For example, there are two cases dealing with "Sale of Goods." In one of the cases the majority consisted of seven judges with no dissentients and the court below was affirmed. In the other case the majority consisted of six judges, three justices dissented and the court below was reversed.

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
<b>ORIGINAL JURISDICTION</b>					
References <sup>2</sup>					
Reported Motions	5	1;7/0	—	—	—
		3;5/0	—	—	—
		1;3/0	—	—	—
<b>APPELLATE</b>					
<b>(a) PRIVATE</b>					
<b>(i) Administration and Succession</b>					
Devolution					
Executors and Administrators					
Wills	3 <sup>3</sup>	3;5/0	0	3 <sup>3</sup>	0
<b>(ii) Commercial</b>					
Accounts					
Agency	1 <sup>4</sup>	1;6/3 <sup>4</sup>	0	1 <sup>4</sup>	0
Assignments					
Bankruptcy	1	1;5/0	0	1	0
Banks and Banking	1	1;7/0	0	1	0
Bills and Notes					
Companies					
Contract	7 <sup>5,6,7</sup>	3;7/0	2 <sup>7</sup>	0	1
		3;5/0	0	2 <sup>5</sup>	1 <sup>6</sup>
		1;4/1	1	0	0
Debtor and Creditor					
Insurance	6	1;9/0	1	0	0
		1;5/4	0	1	0
		1;4/3	1	0	0
		3;5/0	2	1	0
Interest	1 <sup>5</sup>	1;5/0	0	1 <sup>5</sup>	0
Partnership	1	1;5/0	1	0	0
Sale of Goods	2	1;6/3	0	1	0
		1;7/0	1	0	0
Subrogation					

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
<i>(iii) Domestic Relations</i>					
Adoption					
Annulment					
Breach of Promise					
Child Welfare and Custody					
Divorce	1	1;5/0	0	1	0
Judicial Separation					
Maintenance and Support					
<i>(iv) Intellectual Property</i>					
Copyrights					
Industrial Designs					
Patents	2	1;7/2	0	1	0
		1;4/3	0	1	0
Trademarks					
<i>(v) Land</i>					
Hypothecs and Mortgages	1	1;5/0	1	0	0
Landlord and Tenant	1	1;5/0	0	1	0
Mechanics' Liens	1	1;7/0	1	0	0
Real Property	1	1;5/0	1	0	0
<i>(vi) Torts</i>					
Assault and Battery					
Conversion and Detinue	1 <sup>4</sup>	1;6/3 <sup>4</sup>	0	1 <sup>4</sup>	0
Conspiracy and Intimidation	1 <sup>8</sup>	1;7/0	0	0	1 <sup>8</sup>
False Imprisonment	1 <sup>9</sup>	1;5/4 <sup>9</sup>	0	1	0
Libel and Slander	3	2;6/3	1	1	0
		1;5/0	1	0	0
Negligence	2	1;7/2	1	0	0
		1;7/0	1	0	0
Nuisance					
Occupiers' Liability					
Trespass					
Vicarious Liability					

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
<i>(vii) Other</i>					
Admiralty and Shipping					
Associations					
Charities					
Choses in Action					
Conflict of Laws	1	1;9/0	1	0	0
Damages	3 <sup>10</sup>	2;9/0	1	1	0
		1;7/0	0	1 <sup>10</sup>	0
Master and Servant					
<i>(b) PUBLIC</i>					
Administrative Boards	9 <sup>11,12,13</sup>	2;9/0	2 <sup>11,12</sup>	0	0
		1;7/2	0	1	0
		1;6/3	1	0	0
		1;5/4	0	1	0
		2;7/0	2 <sup>13</sup>	0	0
		2;5/0	1	1	0
Certiorari					
Civil Rights	2 <sup>14</sup>	1;6/3	1	0	0
		1;7/0	1 <sup>14</sup>	0	0
Constitutional	10 <sup>7,8,12,14,15</sup>	2;9/0	2 <sup>12</sup>	0	0
		1;7/2	1	0	0
		1;8/0	0	1 <sup>15</sup>	0
		5;7/0	4 <sup>7,14</sup>	0	1 <sup>8</sup>
		1;5/2	0	1	0
Criminal	28 <sup>16</sup>	8;9/0	8 <sup>16</sup>	0	0
		1;7/2	1	0	0
		2;6/3	0	2	0
		2;5/4	2	0	0
		10;7/0	6	4	0
		1;5/2	1	0	0
		2;4/3	1	1	0
		2;3/0	2	0	0
Crown and Sovereign Immunity	4 <sup>10,15</sup>	1;8/0	0	1 <sup>15</sup>	0
		2;7/0	1	1 <sup>10</sup>	0
		1;5/0	0	1	0
Expropriation	2 <sup>11,17</sup>	1;9/0	1 <sup>11</sup>	0	0
		1;5/0	1 <sup>17</sup>	0	0

	Number of Cases Reported	Majority/ Dissent Ratio	Affirmed	Reversed	Other
Habeas Corpus					
Immigration	1	1;5/0	1	0	0
International	1	1;5/0	1	0	0
Interpretation of Statute	6 <sup>18,19</sup>	2;9/0	1	1 <sup>10</sup>	0
		1;7/0	0	1	0
		1;6/1	0	1 <sup>18</sup>	0
		2;5/0	1	1	0
Labour	11 <sup>10</sup>	7;9/0	1	6 <sup>10</sup>	0
		1;4/3	0	1	0
		3;5/0	2	1	0
Mandamus					
Municipal	7 <sup>6,16,17</sup>	1;9/0	1 <sup>16</sup>	0	0
		5;5/0	2 <sup>17</sup>	2	1 <sup>6</sup>
		1;3/2	0	1	0
Native Rights					
Prohibition					
Public Utilities					
Securities					
Taxation	6 <sup>20</sup>	1;7/0	1	0	0
		4;5/0	2	2 <sup>20</sup>	0
		1;3/2	1	0	0
(c) PROCEDURAL					
Appeal	3 <sup>17,21</sup>	2;7/0	1	0	1 <sup>21</sup>
		1;5/0	1 <sup>17</sup>	0	0
Costs					
Declaratory Action					
Evidence	8	3;9/0	1	2	0
		1;6/3	0	1	0
		3;5/4	2	1	0
		1;7/0	1	0	0
Injunctions					
Jurisdiction	8 <sup>3,13,20</sup>	2;9/0	2	0	0
		2;7/0	1 <sup>13</sup>	1	0
		1;4/3	1	0	0
		3;5/0	0	3 <sup>3,20</sup>	0
Limitation Period	1 <sup>18</sup>	1;6/1	0	1 <sup>18</sup>	0
Procedure	7	5;9/0	0	4	1
		1;7/2	1	0	0
		1;7/0	1	0	0



<sup>1</sup> A decision involving one or more appeals (including cross-appeals), motions or references is considered to be one case for the purpose of this table unless the results differ with respect to affirmation or reversal, or the vote or composition of majority or minority varies among the appeals, motions or references. Multiple entries are made if a case involves more than one subject matter of importance.

<sup>2</sup> Appeals from decisions on references brought before lower courts are classified according to their subject matters under appellate.

<sup>3</sup> *United Dist. of Stoneham v. Ouellet*, [1979] 2 S.C.R. 172, has been included under both "Wills" and "Jurisdiction" for the purposes of this table.

<sup>4</sup> *Can. Lab Supplies Ltd. v. Englehard Ind.*, [1979] 2 S.C.R. 787, has been included under both "Agency" and "Conversion and Detinue" for the purposes of this table. The judgment of Laskin C.J. (Spence and Dickson JJ. concurring) has been treated as a dissenting judgment.

<sup>5</sup> *Fred Morton Holdings Ltd. v. Davis*, [1979] 1 S.C.R. 783, has been included under both "Interest" and "Contract" for the purposes of this table.

<sup>6</sup> *Racicot v. Bertrand*, [1979] 1 S.C.R. 441, has been included under both "Contract" and "Municipal" for the purposes of this table. The Court affirmed the judgment of the Court of Appeal in part and reversed the Court of Appeal in part.

<sup>7</sup> *Sask. Power Corp. v. TransCanada Pipelines Ltd.*, [1979] 1 S.C.R. 297, has been included under both "Contract" and "Constitutional" for the purposes of this table.

<sup>8</sup> *Central Can. Potash Co. v. The Gov't of Sask.*, [1979] 1 S.C.R. 42, has been included under both "Constitutional" and "Conspiracy and Intimidation" for the purposes of this table. The Court affirmed the judgment of the Court of Appeal in part and reversed the Court of Appeal in part.

<sup>9</sup> In *Chartier v. A.G. Que.*, [1979] 2 S.C.R. 474, the judgment of Pratte J. (Martland, Dickson and Beetz JJ. concurring) has been treated as a dissenting judgment.

<sup>10</sup> *Man. Fisheries Ltd. v. The Queen*, [1979] 1 S.C.R. 101, has been included under both "Crown and Sovereign Immunity" and "Damages" for the purposes of this table.

<sup>11</sup> *Majestic Neckwear Ltd. v. City of Montreal*, [1979] 1 S.C.R. 823, has been included under both "Administrative Boards" and "Expropriation" for the purposes of this table.

<sup>12</sup> *City of Mississauga v. Municipality of Peel*, [1979] 2 S.C.R. 244, has been included under both "Constitutional" and "Administrative Boards" for the purposes of this table.

<sup>13</sup> *C.T.C. v. Can. Pacific Ltd.*, [1979] 1 S.C.R. 631, has been included under both "Jurisdiction" and "Administrative Boards" for the purposes of this table.

<sup>14</sup> *Bliss v. A.G. Can.*, [1979] 1 S.C.R. 183, has been included under both "Civil Rights" and "Constitutional" for the purposes of this table.

<sup>15</sup> *Keable v. A.G. Can.*, [1979] 1 S.C.R. 218, has been included under both "Constitutional" and "Crown and Sovereign Immunity" for the purposes of this table.

<sup>16</sup> *A.G. Ont. v. Municipality of Peel*, [1979] 2 S.C.R. 1134, has been included under both "Criminal" and "Municipal" for the purposes of this table.

<sup>17</sup> *Bowen v. City of Montreal*, [1979] 1 S.C.R. 511, has been included under "Expropriation," "Municipal" and "Appeal" for the purposes of this table.

<sup>18</sup> *Bernardinelli v. Ont. Housing Corp.*, [1979] 1 S.C.R. 275, has been included under both "Interpretation of Statute" and "Limitation Period" for the purposes of this table.

<sup>19</sup> *C.U.P.E. v. N.B. Liquor Corp.* [1979] 2 S.C.R. 227, has been included under both "Labour" and "Interpretation of Statute" for the purposes of this table.

<sup>20</sup> *Francon v. Montreal Catholic School Comm'n.* [1979] 1 S.C.R. 891, has been included under both "Taxation" and "Jurisdiction" for the purposes of this table.

<sup>21</sup> In *Anderson v. The Queen*, [1979] 1 S.C.R. 630, the Court adjourned the appeal *sine die*.

TABLE IV

MAJORITY/DISSENT RATIO<sup>1</sup>

Total Number of Cases Reported . . . . .						143
Unanimous Decisions . . . . .						107
Split Decisions . . . . .						36
9/0.....33	8/0 .....1	7/0 .. 32	6/0.....1	5/0 .. 40	3/0 .....1	
8/1.....0	7/1.....0	6/1.....1	5/1.....0	4/1 .....1	2/1.....0	
7/2 .....6	6/2 ....0	5/2.....2	4/2 .....0	3/2..... 2		
6/3.....9 <sup>2</sup>	5/3.....0	4/3 .....6	3/3.....0			
5/4.....8 <sup>3</sup>	4/4.....0					

<sup>1</sup> Both "Original Jurisdiction" and "Appellate" decisions are included in this table. A decision involving one or more appeals (including cross-appeals), motions or references is considered to be one case for the purposes of this table unless the composition of majority and minority varies among the appeals, motions or references.

<sup>2</sup> In *Can. Lab Supplies v. Englehard Ind.*, [1979] 2 S.C.R. 787, the judgment of Laskin C.J. (Spence and Dickson JJ. concurring) has been treated as a dissenting judgment for the purposes of this table. The point of difference concerns damages only.

<sup>3</sup> In *Chartier v. A.G. Que.*, [1979] 2 S.C.R. 474, the judgment of Pratte J. (Martland, Dickson and Beetz JJ. concurring) has been treated as a dissenting judgment for the purposes of this table.

TABLE V

TYPE OF WORK<sup>1</sup>

	<u>Common Law</u>	<u>Civil Law</u>	<u>Constitutional</u>	<u>Criminal</u>	<u>Other Public Law</u>	<u>Reported Motions</u>
Beetz	15	19	6	41	34	2
Chouinard	2	0	0	3	0	0
Dickson	22	22	9	36	39	5
Estey	21	19	6	41	36	3
Laskin	16	10	3	28	22	2
Martland	22	12	9	37	31	3
McIntyre	8	4	3	14	8	0
Pigeon	19	23	9	41	39	4
Pratte	16	22	8	35	32	3
Ritchie	24	11	9	39	31	2
Spence	4	9	5	25	26	0

The composition of the Court has changed as follows:

Left: Spence Dec. 29, 1978                      Joined: McIntyre Jan. 1, 1979  
 Pratte June 30, 1979                              Chouinard Sept. 24, 1979

<sup>1</sup> Both "Original Jurisdiction" and "Appellate" decisions are included in this table. A decision involving one or more appeals (including cross-appeals), motions or references is considered to be one case for the purposes of this table. Procedural cases and references are classified according to their underlying subject matters. Cases involving multiple subject matters may be classified under one or more of "Common Law," "Civil Law," "Constitutional," "Criminal" or "Other Public Law."

*Central Canada Potash Ltd. v. The Gov't of Sask.*, [1979] 1 S.C.R. 42, heard before Laskin C.J., Martland, Ritchie, Spence, Pigeon, Dickson and Pratte JJ., has been included under both "Constitutional" and "Common Law" because of multiple subject matters, *i.e.*, "Constitutional" and "Conspiracy and Intimidation."

*Bliss v. A.G. Can.*, [1979] 1 S.C.R. 183, heard before Ritchie, Martland, Pigeon, Dickson, Beetz, Estey and Pratte JJ., has been included under both "Constitutional" and "Other Public Law" because of multiple subject matters, *i.e.*, "Constitutional" and "Civil Rights."

*Keable v. A.G. Can.*, [1979] 1 S.C.R. 218, heard before Pigeon, Martland, Ritchie, Dickson, Beetz, Estey, Spence and Pratte JJ., has been included under both "Constitutional" and "Other Public Law" because of multiple subject matters, *i.e.*, "Constitutional" and "Crown and Sovereign Immunity."

*Sask. Power Corp. v. TransCanada Pipelines Ltd.*, [1979] 1 S.C.R. 297, heard before Martland, Ritchie, Spence, Pigeon, Dickson, Estey and Pratte JJ., has been included under both "Constitutional" and "Common Law" because of multiple subject matters, *i.e.*, "Constitutional" and "Contract."

*A.G. Ont. v. Peel*, [1979] 2 S.C.R. 1134, heard before Laskin C.J., Martland, Ritchie, Pigeon, Dickson, Beetz, Pratte and McIntyre JJ., has been included under both "Criminal" and "Other Public Law" because of multiple subject matters, *i.e.*, "Criminal" and "Municipal Law."

TABLE VI

ACTION OF THE JUSTICES<sup>1</sup>

This table indicates, first, the number of cases on which a justice sat; second, the number of cases in which a justice wrote a judgment (whether "Majority" or "Dissent"); third, the number of cases in which a justice did not write a judgment and concurred with the judgment of another justice (whether "Majority" or "Dissent"); and, fourth, the number of times a justice concurred with the judgment of a particular justice. For example, Laskin C.J.C. sat on 79 cases, wrote 31 majority and 7 dissenting judgments, and concurred with the majority judgment of another justice in 34 cases and with the dissenting judgment of another justice in 7 cases without writing a judgment of his own. Further, he concurred with the majority judgment of Beetz J. once; Dickson J. eight times; Estey J. nine times, etc.; and concurred with the dissenting judgments of Dickson J. once; Martland J. once; and, Spence J. five times.

	Number of Cases	Judgments	Concurrences	Concurrences with Another Justice																
				Beetz	Chouinard	Dickson	Estey	Laskin	Martland	McIntyre	Pigeon	Pratte	Ritchie	Spence						
Beetz	115																			
Majority		6	103	0	0	8	8	17	22	2	19	13	1	3						
Dissent		2 <sup>2</sup>	4	0	0	0	0	0	2	0	1	1 <sup>2</sup>	0	0						
Chouinard	5																			
Majority		0	5	0	0	0	0	0	3	0	0	0	0	0						
Dissent		0	0	0	0	0	0	0	0	0	0	0	0	0						
Dickson	129																			
Majority		12	99	2	0	0	10	27	20	3	14	12	7	4						
Dissent		8 <sup>2,4</sup>	10	0	0	0	0	3 <sup>4</sup>	2	0	0	1 <sup>2</sup>	0	4						



<sup>1</sup> Both "Original Jurisdiction" and "Appellate" decisions are included in this table. A decision involving one or more appeals (including cross-appeals), motions, or references is considered to be one case for the purposes of this table unless the vote or composition of majority or minority varies among the appeals, motions or references.

Where a justice in our opinion indicates approval of another judgment without officially adopting it as his own, no concurrence is entered. Where one judgment is delivered as the opinion of the Court, all other justices sitting on the case are entered as concurring with the author of the opinion.

<sup>2</sup> In *Chartier v. A.G. Que.*, [1979] 2 S.C.R. 474, the judgment of Pratte J. (Martland, Dickson and Beetz JJ. concurring) has been treated as a dissenting judgment.

<sup>3</sup> In *Chernesky v. Armadale Pub. Ltd.*, [1979] 1 S.C.R. 1967, one justice concurred with at least two others. Laskin C.J. agreed with both Martland and Ritchie JJ. for the majority.

<sup>4</sup> In *Can. Lab Supplies v. Englehard Ind.*, [1979] 2 S.C.R. 787, the judgment of Laskin C.J. (Spence and Dickson JJ. concurring) has been treated as a dissenting judgment. The point of difference concerns damages only.